IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8151 OF 2007

Vasudev Kishandas Kataria
and Ors. .. Petitioners

Versus

Harnesswala Coop.Hsg.Society
Ltd. & Ors. .. Respondents

Mr.R.A.Thorat with P.J.Thorat for petitioners
Mr.M.R.Phal for respondent No.1
Mr.S.A.Sawant for respondent No.3.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 3rd December 2007

P.C.

. This is a petition challenging an order

passed by the Maharashtra State Coop.Appellate Court in Appeal No.190 of 2007, refusing interim reliefs partially.

2. A statement was recorded of the original respondent Nos. 1 and 3 that they have no intentions to disconnect the water and electric supply available to the flat of the petitioner - disputant and also they will not take steps to forcibly evict the petitioner from the subject flat but they will do so only by due process of law.

3. Grievance of Mr.Thorat for the petitioner is that having recorded this statement the court below by refusing to pass further interim orders directing maintenance of status quo at site has permitted respondents to demolish the building itself. Undertakings, therefore, would have no meaning. I see substance in this grievance. When the building has a flat and petitioner is

occupant of the flat, while directing that she should not be evicted except with due process of law so also she should not be deprived of her basic amenities, the building could not have been permitted to be demolished. That eight persons out of ten have evicted is no answer. If at all the petitioner is unable to prove her case in the appeal, not only she will be evicted but even the building can be demolished. Parties should have been directed to maintain status quo with regard to the structure as well.

4. Mr.Sawant appears for respondent and states that the petitioner has vacated the flat in question, Whereas, Mr.Thorat denies this position. Be that as it may, While abiding by their undertakings before the lower appellate court, original respondent Nos. 1 and 3 shall also not alter status quo in respect of the building and whatever status quo with regard to the building/structure is prevalent today it

shall continue till the appeal is heard and disposed of.

5. Now the lower appellate court should hear and dispose of the pending appeal expeditiously. This order will continue as an ad-interim order during the pendency of the appeal. Needless to state that the court below should not be influenced by this order and the observations made therein but decide the appeal on its own merits and in accordance with law. Petition disposed of.

(S.C.Dharmadhikari, J)